

REMARKS

As a preliminary matter, the examiner has rejected Claim 17 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 17 stands currently amended to address the Examiner's concerns. Accordingly, Applicants respectfully assert that Claim 17 is in acceptable form. Therefore, Applicants respectfully request Examiner withdraw the rejection of Claim 17 under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Examiner has rejected Claims 8-11 and 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,361,736 to Long et al. ("Long"). The Examiner has also rejected Claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Long. In addition, the Examiner has rejected Claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Long in view of U.S. Patent No. 6,226,386 to Akino ("Akino"). The Examiner has also objected to Claim 16 as being dependent upon a rejected base claim. However, Examiner has conceded that Claim 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8-17 stand currently amended. Claims 1-7 stand previously canceled. Claims 8-17 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 8-17. An early Notice of Allowance is therefore requested.

I. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and

(4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

II. REJECTION OF CLAIMS 8-11 AND 15 UNDER 35 U.S.C. § 102(B) BASED ON LONG

On page 2 of the current Office Action, the Examiner rejects Claims 8-11 and 15 as being anticipated by Long. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 8-11

Amended, independent Claim 8 states, in part:

“wherein the hole is arranged to receive the directional microphone **such that a longitudinal direction of the directional microphone is substantially parallel to the boundary layer.**”
(emphasis added).

Applicants respectfully assert that Long fails to disclose the above language of Claim 8. More specifically, Long discloses that the longitudinal direction of the microphone 10 is perpendicular to the major boundary 13 (i.e., the boundary layer). As such, Long fails to disclose that a longitudinal direction of the directional microphone is substantially parallel to the boundary layer, as stated in Claim 8.

The above arguments were discussed with the Examiner during the telephonic interview held on September 16, 2009. During that interview, Examiner stated that he agreed that Long fails to disclose the above language of Claim 8, and that the above amendment to claim 8 distinguished Claim 8 over the cited art.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of independent Claim 8, and corresponding Claims 9-11 because they are all dependant from independent Claim 8. Therefore, Applicant respectfully requests that

Examiner remove the rejection of Claims 8-11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,361,736 to Long et al.

Claim 9

As stated above, Claim 9 is ultimately dependent from independent Claim 8. As Claim 8 is allowable, so must be Claim 9.

In addition, Claim 9 states, in part:

“an elongate guide unit for guiding the received directional microphone.”

(emphasis added).

Examiner asserts that legs 15 of Long discloses the elongate guide unit of Claim 9. However, the legs 15 do not actually guide the microphone 10. Rather, it is the retaining collar 15 which locks the microphone in place with set screw 16. Long, Col. 5, Lns. 25-29. Thus, if anything, it is the retaining collar 15 and set screw 16 of Long which act as a guide unit for guiding a received microphone. However, neither the collar 15 nor the set screw 16 are an elongate guide unit for guiding a received directional microphone, as stated in Claim 9. Thus, Long fails to disclose the above language of Claim 9.

The above arguments were discussed with the Examiner during the telephonic interview held on September 16, 2009. During that interview, Examiner stated that he would need to re-review Long in view of the above arguments before he could indicate that the above language of Claim 9 is distinguishable over the cited art.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of Claim 9. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,361,736 to Long et al.

Claim 10 and 11

As stated above, Claims 10 and 11 are ultimately dependent from independent Claim 8. As Claim 8 is allowable, so must be Claims 10 and 11.

In addition, Claims 10 and 11 each state, in part:

“means for solid-conducted sound **decoupling**.” (emphasis added).

Examiner asserts that the foam feet or pads 12 disclose the above language of Claims 10 and 11. However, Long explicitly states that the second boundary 11 (which is separated from the major boundary 13 by the foam feet or pads 12) actually forms part of the major boundary 13 in a practical sense. Long, Col. 5, Lns. 35-37. As such, the foam feet or pads 12 actually do not act as a means for solid-conducted sound decoupling from the major boundary 13. Thus, Long fails to disclose the above language of Claims 10 and 11.

The above arguments were discussed with the Examiner during the telephonic interview held on September 16, 2009. During that interview, Examiner stated that he would need to re-review Long in view of the above arguments before he could indicate that the above language of Claims 10 and 11 is distinguishable over the cited art.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of Claims 10 and 11. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 10 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,361,736 to Long et al.

Claim 15

Similarly to Claim 8, amended, independent Claim 15 states, in part:

“wherein the at least one guide element is adapted to receive the directional microphone **such that a longitudinal direction of the directional microphone is substantially parallel to the boundary layer**.” (emphasis added).

Applicants respectfully assert that Long fails to disclose the above language of Claim 15. More specifically, Long discloses that the longitudinal direction of the microphone 10 is perpendicular to the major boundary 13 (i.e., the boundary layer). As such, Long fails to disclose that a longitudinal direction of the directional microphone is substantially parallel to the boundary layer, as stated in Claim 15.

The above arguments were discussed with the Examiner during the telephonic interview held on September 16, 2009. During that interview, Examiner stated that he agreed that

Long fails to disclose the above language of Claim 15, and that the above amendment to claim 8 distinguished Claim 15 over the cited art.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of independent Claim 15. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,361,736 to Long et al.

III. REJECTION OF CLAIMS 12 AND 13 UNDER 35 U.S.C. § 103(A) BASED ON LONG

On page 3 of the current Office Action, the Examiner rejects Claims 12 and 13 as being unpatentable over Long in view of Akino. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 12 and 13 are ultimately dependent from independent Claim 8. As Claim 8 is allowable, so must be Claims 12 and 13. Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of obviousness of Claims 12 and 13. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,361,736 to Long et al.

IV. REJECTION OF CLAIM 14 UNDER 35 U.S.C. § 103(A) BASED ON LONG IN VIEW OF AKINO

On page 4 of the current Office Action, the Examiner rejects Claim 14 as being unpatentable over Long in view of Akino. This rejection is respectfully traversed and believed overcome in view of the following discussion.

Claim 14 is ultimately dependent from independent Claim 8. As Claim 8 is allowable, so must be Claim 14.

In addition, Claim 14 states, in part:

“a buffer in the hole for receiving the directional microphone.”
(emphasis added).

Examiner admits that Long fails to disclose the above language of Claim 14. Rather, Examiner points to Akino as disclosing the above language of Claim 14. However, this misinterprets the teachings of Akino.

More specifically, Akino teaches that the shock mount 2 is located inside the microphone casing 1. As such, the shock mount 2 of Akino is not located in the hole for receiving a directional microphone, as stated in Claim 14.

Furthermore, if the teachings of Akino were combined with those of Long, the shock mount 2 of Akino would be incorporated in the microphone 10 of long, and not in the hole of the retaining collar 14 which receives the microphone 10. Thus, even the combination of the cited references fails to disclose the above language of Claim 14.

In fact, the only disclosure of a buffer in a hole for receiving a directional microphones is contained in the current Application itself. As such, there is no way to combine the cited references to arrive at the language of Claim 14 without using impermissible hindsight.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of obviousness of Claim 14. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,361,736 to Long et al. in view of U.S. Patent No. 6,226,386 to Akino.

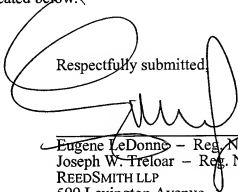
V. OBJECTION TO CLAIM 16 AS BEING DEPENDENT UPON A REJECTED BASE CLAIM

On page 4 of the current Office Action, the Examiner objects to Claim 16 as being dependent upon a rejected base claim. This objection is respectfully traversed and believed overcome in view of the following discussion.

Claim 16 are each ultimately dependent from independent Claim 15. As Claim 15 is allowable, so must be Claim 16. Therefore, Applicant respectfully requests that Examiner remove the objection to Claim 16 as being dependent upon a rejected base claim.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



~~Eugene LeDonne~~ - Reg. No. 35,930
Joseph W. Treloar - Reg. No. 60,975
REEDSMITH LLP
599 Lexington Avenue
New York, NY 10022
Tel.: 212.521.5400

EL:JWT

500593.20096